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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,259	05/18/2005	Kazunori Yamauchi	046124-5379	5783

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EXAMINER

GEISEL, KARA E

ART UNIT	PAPER NUMBER
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2877

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/535,259

Applicant(s)

YAMAUCHI, KAZUNORI

Examiner

Kara E. Geisel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 2 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1105, 0906.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Preliminary Amendment

The preliminary amendment filed on May 18th, 2005, has been entered into this application.

Information Disclosure Statement

The information disclosure statements filed November 29th, 2005 and September 15th, 2006 have been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-4, and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Bayer Corporation (EP 0 994 343), as cited by applicant.

In regards to claim 1, Bayer discloses a color measuring device (figs. 1-4) for irradiating measurement light onto each colored line formed in a color region (26) of a test strip (14) and for receiving reflected light of the measurement light to measure a color intensity of each colored line (¶s 3, and 7-8), the device comprising: a single mount plate (80) for mounting of a specific test strip (14) in which at least two independent color regions are arranged in parallel to each other (26); a plurality of irradiation optical systems for irradiating respective beams of measurement light onto the associated color regions of the specific test strip (30a-e); a plurality of reception optical systems for receiving respective beams of reflected light from the associated

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color regions (32a-d); an optical head carrying the plurality of irradiation optical systems and reception optical systems (shown in fig. 2); and a scanning mechanism for effecting relative movement between the mount plate and the optical head in a scan direction traversing each colored line (§ 23).

In regards to claim 3, the plurality of irradiation optical systems and the plurality of reception optical systems are mounted on the single optical head (as seen in fig. 2).

In regards to claim 4, the scanning mechanism is arranged to move the optical head relative to the mount plate in the scan direction (§ 23).

In regards to claim 6, Bayer discloses a color measuring device (figs. 1-4) for measuring a color intensity of each colored line (26) formed on a test strip (14), the device comprising: a single mount plate (80) for mounting of the test strip (14); an optical head carrying (seen in fig. 2) a plurality of pairs, each pair consisting of an irradiation optical system for irradiating measurement light toward the mount plate (30a-e) and a reception optical system for receiving light incident from the mount plate side (32a-d); and a scanning mechanism for effecting relative movement between the mount plate and the optical head in a predetermined scan direction (§ 23).

In regards to claim 7, the pairs of irradiation optical systems and reception optical systems are juxtaposed in a direction intersecting with the predetermined scan direction (seen in fig. 1).

Allowable Subject Matter

Claims 2 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter:

As to claim 2, the prior art of record, taken alone or in combination, fails to disclose or render obvious a color measuring device for irradiating measurement light onto each colored line formed in a color region of a test strip and for receiving reflected light of the measurement light to measure a color intensity of each colored line, wherein the plurality of irradiation optical systems and the plurality of reception optical systems are optically isolated from each other, in combination with the rest of the limitations of claim 2.

As to claim 5, the prior art of record, taken alone or in combination, fails to disclose or render obvious a color measuring device for irradiating measurement light onto each colored line formed in a color region of a test strip and for receiving reflected light of the measurement light to measure a color intensity of each colored line, wherein the specific test strip is housed in a casing having a plurality of measurement windows for exposing at least two color regions, and a plurality of drop windows for dropwise delivery of a sample solution to effect development in each color region, in combination with the rest of the limitations of claim 5.

Additional Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art made of record is Strohmeier et al. (USPN 4,676,653), Gudaitis (US Pubs 2002/0097454), and Rudolf (US Pubs 2006/0176483).

Strohmeier discloses a color measuring device for irradiating measurement light onto each colored line formed in a color region of a test strip and for receiving reflected light of the measurement light to measure a color intensity of each colored line, the device comprising: a single mount plate for mounting of a specific test strip in which at least two independent color regions are arranged in parallel to each other; a plurality of irradiation optical systems for

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irradiating respective beams of measurement light onto the associated color regions of the specific test strip; a plurality of reception optical systems for receiving respective beams of reflected light from the associated color regions; an optical head carrying the plurality of irradiation optical systems and reception optical systems; wherein the plurality of irradiation optical systems and the plurality of reception optical systems are optically isolated from each other.

Gudaitis discloses a color measuring device for irradiating measurement light onto each colored line formed in a color region of a test strip and for receiving reflected light of the measurement light to measure a color intensity of each colored line, the device comprising: a single mount plate for mounting of a specific test strip in which at least two independent color regions are arranged in parallel to each other; one irradiation optical system for irradiating respective beams of measurement light onto the associated color regions of the specific test strip; a plurality of reception optical systems for receiving respective beams of reflected light from the associated color regions; an optical head carrying the plurality of reception optical systems; and a scanning mechanism for effecting relative movement between the mount plate and the optical head in a scan direction traversing each colored line.

Rudolf discloses a color measuring device for irradiating measurement light onto each colored line formed in a color region of a test strip and for receiving reflected light of the measurement light to measure a color intensity of each colored line.

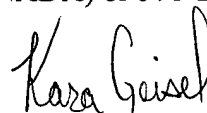
Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kara E Geisel whose telephone number is **571 272 2416**. The examiner can normally be reached on Monday through Friday, 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on **571 272 2800 ext. 77**. The fax phone number for the organization where this application or proceeding is assigned is **571 273 8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kara E. Geisel
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March 29, 2007